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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 03.4.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.39 of 2006

Sangeetha ... Petitioner

Vs.

1. State of Tamil Nadu
Rep by Secretary to Govt.,
Prohibition and Excise Department
Fort St.George, Chennai-9

2. The District Magistrate and
District Collector,
Villupuram District,
Villupuram. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the proceedings of the Second respondent dated 15.12.2005 made in C2/66903/2005 quash the same and set the petitioners husband the detenu Vinoth @ Vinoth Kumar S/o. Magendiran at liberty who is detained in Central Prison, Cuddalore.

For Petitioner : Mr.Devaraj
For Respondents: Mr.Abudhukumar Rajaraathinam,
Govt. Advocate (Crl. Side)

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the wife of the detenu by name Vinoth @ Vinoth Kumar, son of Magendiran, who was detained as a 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 15.12.2005, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated 26.12.2005 was received by the Government on 27.12.2005 and remarks were called for on 28.12.2005. The said representation was received by the Collectorate on 02.01.2006 and the parawar remarks were called for from the Sponsoring authority on 04.01.2006 and the remarks were received from the sponsoring authority on the same date i.e. on 04.01.2006 and the report were received by the Government only on 23.01.2006. Thereafter, the File was submitted on 24.01.2006 and the same was dealt with by the Under Secretary and Deputy Secretary on 25.01.2006 and finally, the Minister for Prohibition and Excise passed orders on 25.01.2006. The rejection letter was prepared on 30.01.2006 and the same was sent to the detenu on 31.01.2006 and served to him on 02.02.2006. As rightly pointed out by the learned counsel for the petitioner, though the the Collectorate received remarks from sponsoring authority on 04.01.2006, the same were sent to Government only on 23.01.2006 and there is no explanation at all for sending the report to the Government belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks is on the higher side and the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

ga

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2. The District Collector and District Magistrate, Villupuram district, Villupuram.

3. The Superintendent, Central Prison, Cuddalore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr. M. Devaraj, Advocate SR No.16626

RL(CO)
SR/13.4.2006

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